

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 09-3598

Byron Case,

Petitioner - Appellant

v.

Larry Denney, Warden,

Respondent - Appellee

Appeal from U.S. District Court for the Western District of Missouri - St. Joseph
(5:09-cv-06021-DGK)

JUDGMENT

Before WOLLMAN, RILEY, and COLLOTON, Circuit Judges

This appeal comes before the court on appellant's application for a certificate of appealability. The court has carefully reviewed the original file of the district court, and the application for a certificate of appealability is denied. The appeal is dismissed.

The application for leave to appeal in forma pauperis is moot.

February 26, 2010

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans